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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/759,423      | 01/12/2001  | Paul Green           | PGR-100             | 2318             |

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EXAMINER

WATSON, ROBERT C

| ART UNIT | PAPER NUMBER |
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3723

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Please find below and/or attached an Office communication concerning this application or proceeding.



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09-759-423

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20060801a

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Commissioner for Patents

**Examiner's Response to the Particular Arguments  
Raised by Appellant in the Reply Brief**

The reply brief filed 11/28/05 has been entered and considered.

In the "Remand to the Examiner" by the BPAI the Board requested a response from the examiner to the particular arguments raised by appellant in the reply brief. The examiner thanks the Board for the opportunity to respond to the particular arguments raised by appellant in the reply brief. A response from the examiner is found herebelow:

With regard to the 35USC112, first paragraph rejection applicant states that "Figure 1A clearly indicates a ball socket **incorporated** with the A-frame coupler". The examiner again states on the record that the examiner does not see a "hitch ball" or a "ball socket" in Figure 1A. Applicant is now suggesting that a "hitch ball" and a "ball socket" are "incorporated" (but apparently not shown) in the A-frame of Figure 1A. Apparently applicant is suggesting that one should use one's imagination when viewing Figure 1A and perhaps guess what is "incorporated" in the A-frame of Figure 1A. It is the examiner's position that a suggestion that one should guess at what is incorporated in a drawing figure does not fulfill the requirements of 35USC112, first paragraph. There is a quid-pro-quo for receiving a patent and that quid-pro-quo requires that

Art Unit: 3723

applicant fulfill the requirements of 35USC112, first paragraph. Applicant by suggesting that we guess at what is incorporated in a drawing figure is not the quid-pro-quo that is expected from 35USC112, first paragraph.

With regard to the 35USC103 rejection applicant states that the examiner has “changed his position” regarding the principle purpose of the Sweetland invention. The examiner has never suggested that Sweetland has only one principle purpose or object. It is the examiner’s position that a principle purpose of the Sweetland invention is to provide a jack that is removable from the trailer for the sole purpose of stowing the jack in a remote location so that the jack will not be in the way when the trailer is driven along the ground. It is the examiner’s position that another principle purpose of the Sweetland invention is to provide a jack for raising the trailer. These two principle purposes are not mutually exclusive, they can co-exist together. Employing the Linton jack on the Sweetland trailer would not defeat either of these two principle purposes of Sweetland. Applicant by raising this issue has just reinforced the examiner’s position by, in effect, making it clear that not just one principle purpose but each of the several principle purposes of Sweetland’s invention are not defeated by employing Linton’s jack on Sweetland’s trailer.

The examiner has stated that there is no reason for the removal of the Sweetland jack other than to stow the jack remotely so that the jack is out of the way when the trailer moves along the ground. Applicant by conjecture suggests that another reason to remove the Sweetland jack from the trailer would be to use the Sweetland jack on another trailer. Applicant’s position is found to be illogical because the Sweetland jack

Art Unit: 3723

is unique to only the specially configured A-frame trailer shown in Sweetland. The Sweetland jack is not capable of being used on other different not so uniquely equipped trailers. To sum up, Sweetland's jack can only be used on Sweetland's trailer and no one else's trailer. Therefor, logically, there is no reason for the removal of the Sweetland jack other than to stow the jack remotely so that the jack is out of the way when the trailer moves along the ground. That having been said, the Linton disclosure offers an obvious solution to Sweetland's inconvenient jack storage problem. The Linton disclosure even states that his selectively mountable jack can be used on "several types of vehicles" (Linton, column1, line 10). It is respectfully submitted that by far the most common vehicle used that needs leveling is a trailer with an A-frame coupler. Therefor, a trailer with an A-frame coupler would necessarily be one of the "several types of vehicles" that Linton intends to use his selectively mountable jack on.

With regard to the Claim 3 rejection applicant argues that the examiner has not specifically stated details as to where on the Sweetland trailer and Linton jack that the pivot holes should go. Such a position by applicant ignores the level of skill of one skilled in the art. It is respectfully submitted that one skilled in the art would not be somehow confounded or puzzled as to where to provide pivot holes in the Sweetland trailer and the Linton jack to pivot a trailer jack in view of the pivoting trailer jack shown in the Ebey disclosure.

Finally, applicant argues that the term "mountable" in claim 1 limits the structure of the first piece and the second piece. The examiner does not find the term "mountable" to import a patentable limitation. A lamp is capable of resting on a desk.

Art Unit: 3723

That lamp is therefor "mountable" on a desk. That same exact lamp is also capable of resting on a trailer. That same exact lamp is therefor "mountable" on a trailer. Is then "mountable" a patentable limitation? Should the PTO issue a patent to an inventor that copies that exact same lamp and recites in a patent application claim that the lamp is mountable on a trailer? Can it be doubted that a pair of telescopic members having selective incremental locking extension is old and well known in the art? Can it be doubted that one of that pair of telescopic members is capable of resting on a trailer and that therefor a one of that pair of telescopic members is mountable on a trailer? Can it be doubted that the other of the telescopic members is capable of resting on a jack and therefor the other of that pair of telescopic members is mountable on a jack?

Applicant's "mountable" limitation is, at best, a suggestion of what a structural element is inherently capable of and structural elements are in and of themselves inherently capable of an infinite number of things. "Mountable" is certainly not a patentable limitation.

For the above reasons and for the reasons previously advanced in the Examiner's Answer, it is believed that the rejections should be sustained.

The application has been forwarded to the Board of Patent Appeals and Interferences for decision on appeal.

Art Unit: 3723

Respectfully submitted,

A handwritten signature in cursive script that reads "Robert C. Watson".

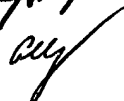
Robert C. Watson

Conferees:

Joseph J. Hail

A handwritten signature in cursive script that reads "Joseph J. Hail".

Allan N. Shoap

A handwritten signature in cursive script that reads "Allan N. Shoap".